



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,763	03/10/2000	Raymond Graj	838625/43	5785

7590 10/04/2002

Joel E Lutzker, Esq.
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, NY 10022

EXAMINER

SIMONE, TIMOTHY F

ART UNIT

PAPER NUMBER

1761

14

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/522,763	Applicant(s) Graj, et al.
Examiner Timothy F. Simone	Art Unit 1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-28 is/are allowed.
- 6) Claim(s) 29-37 and 39-44 is/are rejected.
- 7) Claim(s) 38 is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) Interview Summary (PTO-413) Paper No(s). _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Application/Control Number: 09/522,763

Art Unit: 1761

DETAILED OFFICE ACTION

Reissue Application

The indicated allowability of claims 29-37 and 39-44 is withdrawn in view of the newly discovered references to Caminos, Arsenault, Stewart, and Hoffman. Rejections based on the newly cited references follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 32 recites the limitation

Application/Control Number: 09/522,763

Art Unit: 1761

"the top end" in claim 32, line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under

Application/Control Number: 09/522,763

Art Unit: 1761

35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 29-31, 33-37 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Caminos (U. S. Patent No. 5,774,937). Caminos shows in Figures 2-12 a handle adapter for use with a cooking utensil, which comprises an elongated body portion (arm 26) having a first end, which includes a forearm support (armrest 44) and a handgrip (referred to in the specification as 14 and shown in the drawings as 38). Note that the angle of the grip axis is no greater than substantially 90 degrees with respect to the axis of the body portion (arm 26). With regard to claim 30, Caminos states that the material of the handle adapter is preferably polymers and other plastics, which can withstand heat (see col. 7, lines 56-58).

Claims 29, 31, 32, 34, 36, 39-41, 43 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Arsenault (U.S. Patent No. 3,372,510). Arsenault describes an ergonomic hand supported implement (i.e., a fishing rod) which includes a forearm support member 34 and a handle 28 which tilts in a direction of said hand supported implement at an angle less than substantially 90 degrees with respect to a horizontal plane that intersects the implement (see claim 40), as well as with respect to an axis defined by the user's forearm.

Application/Control Number: 09/522,763

Art Unit: 1761

Claims 29, 31, 32, 34-36 and 39-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart (U.S. Patent No. 4,924,924). Refer in particular to the Figure 8 embodiment.

Claims 29-32, 34-37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman. The features of the instantly rejected claims are structurally met by the reference to Hoffman (See Figs 1A-3B).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 35, 36, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arsenault in view of either Caminos or Stewart. Arsenault meets the limitations of the claimed invention with the exception that the forearm support does not present a concave

Application/Control Number: 09/522,763

Art Unit: 1761

support surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Arsenault's flat lateral arm support portions so that they are concave in view of either Caminos or Stewart in order to provide a more comfortable support for the user.

Allowable Subject Matter

Claims 1-28 are allowable over the prior art of record.

Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

If additional defects or errors are corrected in the reissue after the filing of the application and the original reissue oath or declaration, a supplemental reissue oath/declaration must be filed, unless all additional errors corrected are spelling, grammar, typographical, editorial or clerical errors which are not errors under 35 U.S.C. 251 (see MPEP § 1402). In other words, a supplemental oath/declaration is required where any “error” under 35 U.S.C. 251 has been corrected and the error was not identified in the original

Application/Control Number: 09/522,763

Art Unit: 1761

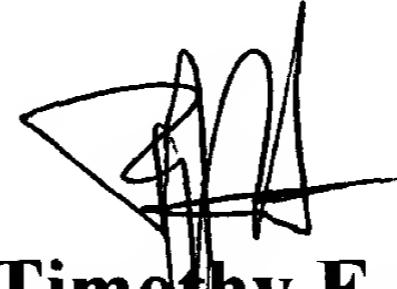
reissue oath/declaration.

The supplemental reissue oath/declaration must state that every error which was corrected in the reissue application not covered by the prior oath(s)/declaration(s) submitted in the application arose without any deceptive intention on the part of the applicant.

An example of acceptable language is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



**Timothy F. Simone
Primary Examiner
Group 1760
Art Unit 1761**